

REMARKS

Applicants appreciate the thorough examination of the present application as evidenced by the Office Action mailed May 28, 2008 (hereinafter "Office Action"). In response, Applicants respectfully submit that the cited references fail to disclose or suggest, at least, the recitations of independent Claims 1, 19, 37, and 55. Accordingly, Applicants submit that all pending claims are in condition for allowance. Favorable reconsideration of all pending claims is respectfully requested for at least the reasons discussed hereafter.

Independent Claims 1, 19, 37, and 55 are Patentable

Independent Claims 1, 19, 37, and 55 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 6,901,446 to Chellis et al. (hereinafter "Chellis") in view of U. S. Patent No. 7,213,071 to DeLima et al. (hereinafter "DeLima"). Independent Claim 1 is directed to a method of modifying at least one of bandwidth and Quality of Service (QoS) for a user session in a network and recites, in part:

receiving a request at at least one of the NSP and the ASP to change at least one of bandwidth and QoS associated with the user's session; and
using Application Programming Interface (API) calls at at least one of the NSP and the ASP to communicate with the RAN to modify the at least one of bandwidth and QoS associated with the user's session.

Claims 19, 37, and 55 include similar recitations. According to the independent claims, the Network Service Provider (NSP), Application Service Provider (ASP), or both receive a request to change bandwidth, QoS, or both for a user's session. API calls or messaging interface calls are used to communicate with a Regional Access Network (RAN) to make the requested modification.

As a preliminary point, Applicants note that Chellis relates to automatically allocating resources in response to a request. (Chellis, Abstract; col. 4, lines 28 - 33). Chellis does not appear to disclose receiving a request to change bandwidth or QoS for an existing user session and making the requested modification as recited in the independent claims. Instead, Chellis appears to be directed to allocating resources through a provisioning process, *i.e.*, to establish

initial service for a requesting group, such as a consumer group. (Chellis, col. 15, line 35 - col. 16, line 23; FIG. 10).

Next, the independent claims recite the use of API calls (Claims 1, 19, and 37) or messaging interface calls (Claim 55) at an NSP and/or ASP to communicate with a RAN to modify bandwidth and/or QoS for a user session. The Office Action acknowledges that Chellis does not teach using API calls to modify bandwidth and/or QoS associated with a user's session, but alleges that DeLima provides the missing teachings at col. 10, lines 28 – 50. (Office Action, page 3). The cited passage from DeLima describes the use of API calls to insert a transactional QoS (TQoS) cookie into HTTP messages to indicate the QoS used for a business transaction, i.e., an exchange of messages between a client and a server. (DeLima, col. 7, lines 35 – 37 and col. 10, lines 36 – 40). In sharp contrast to the recitations of the pending independent claims, however, DeLima does not appear to provide any disclosure or suggestion of using API or messaging interface calls to communication with a Regional Access Network (RAN) to modify bandwidth and/or QoS associated with a user's session. Applicants note that Chellis also fails to suggest communicating with a RAN to modify bandwidth and/or QoS associated with a user's session. Chellis discloses in FIG. 10 a resource management service 220, provisioning framework 240, data center operations 250, and feedback analysis function 260 that are used for allocating resources. (Chellis, col. 15, lines 35 - 55). Chellis does not appear to disclose, however, that any of these modules/functions are part of an NSP and/or ASP.

With respect to independent Claim 55, the Office Action cites the Abstract in Chellis as disclosing the use of messaging interface calls. (Office Action, page 9). Chellis' Abstract states: "...the system includes an Application Programming Interface (API) operable to configure and/or control the one or more components for automatically allocating one or more resources." Thus, Chellis' API is used to configure components for the automatic allocation of resources. These "components" appear to be the resource request manager 40 and the resource allocator 30 shown in FIG. 2 of Chellis, which are not described in Chellis as being part of a RAN. The Abstract is the only reference to an API in Chellis. Therefore, Chellis does not disclose using API or messaging interface calls to communicate with a RAN, i.e., a network to modify bandwidth and/or QoS for a user session. Moreover, DeLima fails to provide the teachings missing from Chellis for at least the reasons described above.

In re: Thomas Arnold Anschutz, et al.
Application No.: 10/756,790
Filed: January 13, 2004
Page 16

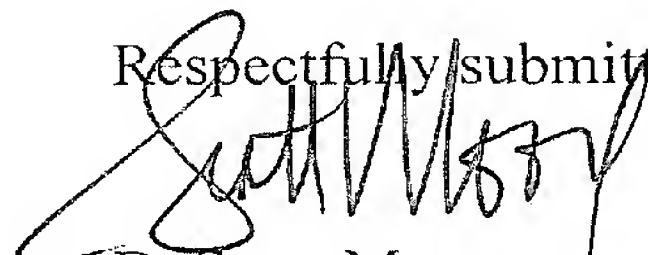
For at least the foregoing reasons, Applicants respectfully submit that independent Claims 1, 19, 37, and 55 are patentable over Chellis and DeLima, and that dependent Claims 2 - 18, 20 - 36, and 38 - 54 are patentable at least by virtue of their depending from an allowable claim.

Various Dependent Claims are Separately Patentable

Claims 2 - 18, 20 - 36, and 38 - 54 also stand rejected as unpatentable over the combination of Chellis and DeLima. (Office Action, page 2). These claims depend from independent Claims 1, 19, and 37, respectively, and are allowable for at least the reasons discussed above. Many of these claims, however, are separately patentable. For example, as discussed above, Chellis does not disclose communicating between an NSP and/or ASP and a RAN to modify the bandwidth and/or QoS associated with a user session. Accordingly, Chellis does not disclose any of the details of such communication as recited, for example, in Claims 5 - 17, 23 - 35, and 31 - 53 and DeLima fails to provide the teachings missing from Chellis. Applicants, therefore, submit that Claims 5 - 17, 23 - 35, and 31 - 53 are separately patentable for at least these additional reasons.

CONCLUSION

In light of the above amendments remarks, Applicants respectfully submit that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

Respectfully submitted,

D. Scott Moore
Registration No. 42,011

In re: Thomas Arnold Anschutz, et al.
Application No.: 10/756,790
Filed: January 13, 2004
Page 17

Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
Customer Number 39072

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on October 28, 2008.

Signature: _____

Kirsten S. Carlos